

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

JOHNNY CHILDERS,)	
)	
Petitioner,)	
)	
vs.)	CIVIL ACTION NO. 04-SLB-RRA-1039-NE
)	
THE STATE OF ALABAMA,)	
)	
Respondent.)	

MEMORANDUM OF OPINION

The court has considered the entire file in this action, together with the Magistrate Judge's Report and Recommendation, and has reached an independent conclusion that the Report and Recommendation is due to be adopted and approved. The court hereby adopts and approves the findings and recommendation of the magistrate judge as the findings and conclusions of the court. In accord with the recommendation, this petition for writ of habeas corpus is due to be dismissed without prejudice to allow the petitioner to petition the Eleventh Circuit Court of Appeals for permission to file a successive petition in this court. An appropriate order will be entered.

DONE this 12th day of January, 2005.



SHARON LOVELACE BLACKBURN
UNITED STATES DISTRICT JUDGE

